



**GENERAL SERVICES ADMINISTRATION**

**48 CFR Parts 538 and 552**

**[GSAR Case 2021-G529; Docket No. GSA-GSAR 2022-0006;**

**Sequence No. 1]**

**RIN 3090-AK50**

**General Services Administration Acquisition Regulation**

**(GSAR); Updates to References to Individuals with**

**Disabilities**

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Final Rule.

**SUMMARY:** The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to provide more inclusive acquisition guidance for underserved communities by updating references from "handicapped individuals" to "individuals with disabilities," pursuant to Section 508 of the Rehabilitation Act. This rule supports underserved communities, promoting equity in the Federal Government.

**DATES:** Effective: **[Insert date 30 days after date of publication in the *FEDERAL REGISTER*]**.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Joseph Goldberg or Ms. Adina Torberntsson, GSA Acquisition Policy Division, at 303-236-2677 or [gsarpolicy@gsa.gov](mailto:gsarpolicy@gsa.gov). For information pertaining to

status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or *GSARRegSec@gsa.gov*. Please cite GSAR Case 2021-G529.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Currently, the GSAR uses the terms “handicapped” and “handicapped individuals” to identify individuals with impairments who can benefit from certain electronic office equipment. However, the Americans with Disabilities Act and the Rehabilitation Act use the term “individuals with disabilities” to reference these individuals. Thus, this rule updates language in the GSAR to conform with the statutory language and provide more inclusive acquisition guidance for underserved communities.

### **II. Authority for This Rulemaking**

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

### **III. Discussion and Analysis**

This rule revises the term “handicapped” to “individuals with disabilities” at 552.238-73. Additionally, the rule updates the GSAR to guide the reader to 29 U.S.C. 705(20) for the definition of “individuals with disabilities”, replacing an outdated reference to 29 CFR 1613.702 for the definition of “handicapped.”

#### **IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been reviewed and determined by OMB not to be a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

#### **V. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a "major rule" may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the Federal Register. This rule has been reviewed and determined by OMB not to be a "major rule" under 5 U.S.C. 804(2).

## **VI. Notice for Public Comment**

The statute that applies to the publication of the GSAR is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This rule is not required to be published for public comment, because GSA is not issuing a new regulation. This rule does not add any new solicitation provisions or contract clauses. It does not add any new burdens because the case does not add or change any requirements with which vendors must comply. Rather, this rule is merely an editorial change and will provide consistent language to statute.

## **VII. Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply to this rule, because an opportunity for public comment is not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see Section VI of this

preamble). Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

#### **VIII. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### **List of Subjects in 48 CFR Parts 538 and 552**

Government procurement.

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Therefore, GSA amends 48 CFR parts 538 and 552 as set forth below:

1. The authority citation for 48 CFR parts 538 and 552 continues to read as follows:

**AUTHORITY:** 40 U.S.C. 121(c).

**PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING**

**538.273 [Amended]**

2. Amend section 538.273 by removing from paragraph (b) (1) the phrase “the Handicapped” and adding “Individuals with Disabilities” in its place.

**PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. Revise section 552.238-73 to read as follows:

**552.238-73 Identification of Electronic Office Equipment Providing Accessibility for Individuals with Disabilities.**

As prescribed in 538.273(b) (1), insert the following clause:

IDENTIFICATION OF ELECTRONIC OFFICE EQUIPMENT PROVIDING ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES ([Insert Abbreviated Month and Year 30 Days After Date of Publication in the *Federal Register*])

(a) *Definitions.*

*Electronic office equipment accessibility* means the application/configuration of electronic office equipment (includes hardware, software and firmware) in a manner that accommodates the functional limitations of individuals with disabilities (as defined below) so as to promote

productivity and provide access to work related and/or public information resources.

*Individuals with disabilities* means qualified individuals with impairments as defined in 29 U.S.C. 705(20) who can benefit from electronic office equipment accessibility.

*Special peripheral* means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to individuals with disabilities.

(b) The offeror is encouraged to identify in its offer and include in any commercial catalogs and pricelists accepted by the Contracting Officer, office equipment, including any special peripheral, that will facilitate electronic office equipment accessibility for individuals with disabilities. Identification should include the type of disability accommodated and how the users with that disability would be helped.

(End of clause)

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